



## **COUNCIL ON ENVIRONMENTAL QUALITY**

**[CEQ–2023–0002]**

### **Columbia River Salmon and Other Native Fish Request for Information**

**AGENCY:** Council on Environmental Quality.

**ACTION:** Request for information.

**SUMMARY:** The Council on Environmental Quality (CEQ) is issuing this request for information (RFI) to solicit feedback on Columbia River salmon and other native fish restoration and other relevant information to an ongoing mediation.

**DATES:** The agency requests comments by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], and must receive comments on or before August 31, 2023.

**ADDRESSES:** You may submit comments, identified by docket number CEQ–2023–0002, using the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name, “Council on Environmental Quality,” and the docket number, CEQ–2023–0002, for this RFI. Comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Do not submit any information you consider to be private information, privileged or confidential commercial or financial information, or other information the disclosure of which is restricted by statute. CEQ encourages submissions of 1,000 words or fewer. For any submissions that are over 1,000 words, please consider including an executive summary of 1,000 words or fewer.

All submissions are voluntary. You may respond to some or all of the questions listed in the RFI. You may include references to academic literature or links to online

material (such as datasets) but please ensure all links are publicly available. Each response should include:

- The name of the individual(s) or entity responding.
- A brief description of the responding individual(s) or entity's mission or areas of expertise.
- A contact for questions or other follow-up on your response.

**FOR FURTHER INFORMATION CONTACT:** Issues regarding submission or questions on this RFI can be sent to De'Marcus Robinson, Ocean Policy Fellow, 202–395–5750 or [De'Marcus.R.Robinson@ceq.eop.gov](mailto:De'Marcus.R.Robinson@ceq.eop.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Columbia River and its tributaries were once among the most productive salmon and steelhead ecosystems in the world with an estimated 7.5 to 16 million adult salmon and steelhead returning to Pacific Northwest tributaries each year and sustaining the cultures and economies of Tribal Nations since time immemorial. From the 1930s to the 1970s, the Federal government constructed a series of 14 multipurpose dams in the Columbia River Basin to address a myriad of economic challenges, and, additionally, more than 100 non-Federal dams were constructed.

Communities across the Northwest have come to rely on these dams for reliable and affordable electricity, flood risk management, water supply, irrigation, navigation, and recreation. The dams also altered free-flowing rivers, affected juvenile fish as they migrate out to sea, impeded adult fish returning to spawn, inundated Tribal fishing areas

and sacred sites, and forever displaced people from their homes. The construction of the Grand Coulee and Chief Joseph dams without fish passage eradicated salmon and steelhead from the Upper Columbia River Basin. In the 1990s, 13 of the Columbia River Basin's remaining salmon populations required the protection of the Endangered Species Act to survive.

The Federal Government has spent tens of billions of dollars, in partnership with Tribes, states, and non-governmental organizations, on efforts that contribute to fish survival and recovery. States and Tribes have also funded and implemented fish recovery programs. Despite hard work, ingenuity, great expense, and commitment across all levels of Federal, state, Tribal and local governments and a wide range of stakeholders, many fish populations in the Columbia River Basin—salmon, steelhead, and others—have not recovered, some continue to decline, and many areas remain inaccessible to them.

Litigation over the impact of the operation of certain Federal dams in the Columbia River System on salmon and other native fish has been ongoing for decades and the courts have consistently ruled that the Federal Government has fallen short of its legal obligations. Currently, several ongoing cases are pending in the U.S. District Court for the District of Oregon and in the U.S. Court of Appeals for the Ninth Circuit.

In the Fall of 2021, the plaintiffs and petitioners in the litigation and the Federal Government agreed to a temporary stay in the litigation to create an opportunity for the Federal Government to develop a long-term plan to restore Columbia River salmon and other native fish. Shortly thereafter, the Council on Environmental Quality (CEQ) convened an interagency group with leaders from: the Department of the Interior, including the Bureau of Indian Affairs, Bureau of Reclamation, and Fish and Wildlife Service; the Department of Commerce, including the National Oceanic and Atmospheric Administration; the Department of the Army, including the Army Corps of Engineers; and the Department of Energy, including the Bonneville Power Administration. This

interagency group is intended to build on existing analyses to identify a durable path forward that ensures a clean energy future, supports local and regional economies, and restores ecosystem function, while honoring longstanding commitments to Tribal Nations.

In March 2022, CEQ Chair Brenda Mallory, Secretary of the Interior Deb Haaland, Secretary of Energy Jennifer Granholm, Assistant Secretary of the Army for Civil Works Michael Connor, and Under Secretary of Commerce for Oceans and Atmosphere Dr. Richard Spinrad convened a consultation with Tribal Nations of the Columbia River Basin and published a blog post reflecting on what the Tribes shared at the consultation and the Administration's values that inform its effort to restore healthy and abundant salmon and steelhead to the Columbia River Basin.

In April 2022, the Federal Government engaged the Federal Mediation and Conciliation Service (FMCS) to mediate and facilitate between the parties in the litigation and the regional sovereigns, including Tribal Nations and states. In August 2022, the plaintiffs, petitioners, and the Federal government agreed to an additional stay in litigation through August 2023.

Through the stay agreement, the Federal Government committed to supporting development of a durable long-term strategy to restore salmon and other native fish populations to healthy and abundant levels, honoring Federal commitments to Tribal Nations, delivering affordable and reliable clean power, and meeting the many resilience needs of stakeholders across the region. Since that time, the Federal Government has engaged with the states, Tribes, and other litigation parties through the FMCS process toward developing a long-term strategy and further stay or resolution of the litigation. To provide the stakeholders who are not directly involved in the litigation an opportunity to provide input to the Federal agencies on Columbia River Basin restoration, the Federal

Government asked FMCS to schedule listening sessions where individuals could provide comment.

The first listening session occurred on March 31, 2023. FMCS gave speakers slots in the order that they registered. Because of the number of people who registered to speak (250 people), the first session was extended in an overflow session on April 3. Fifty-five people offered comments on March 31, and forty-eight on April 3. Across both days, everyone in attendance who had registered to speak had an opportunity to do so; some persons who registered to speak did not attend and others attended but chose not to speak. FMCS has scheduled another listening session for May 25. CEQ is publishing this RFI and opening a publicly accessible docket to provide an additional opportunity for public input on the key questions below or any other information and views relevant to the task of identifying a durable path forward for salmon and other native fish that honors longstanding commitments to Tribal Nations, ensures a clean energy future, supports local and regional economies, and restores ecosystem function. Through this RFI, CEQ also encourages the parties to the FMCS process to review the comments received on the docket to inform discussions in the mediation. This RFI does not serve as a substitute for other public engagement that may be required for any specific action that the Federal government undertakes.

In March 2022, CEQ established an email address, [salmon@ceq.eop.gov](mailto:salmon@ceq.eop.gov), as a means for interested persons to share their thoughts on issues related to the mediation. Emails sent to [salmon@ceq.eop.gov](mailto:salmon@ceq.eop.gov) are delivered only to CEQ, however, and are not directly available to other parties to the mediation or the public. Because this RFI and the associated public docket provide a more effective means for seeking input than an agency email address, CEQ will close the [salmon@ceq.eop.gov](mailto:salmon@ceq.eop.gov) email address 30 days after publication of this RFI. Interested parties should submit information in response to this RFI in lieu of emailing [salmon@ceq.eop.gov](mailto:salmon@ceq.eop.gov).

CEQ requests comments under this RFI within 60 days to provide timely information for consideration, however, the public docket will remain open until August 31, 2023, the date the stay agreement is set to expire. CEQ will continue to monitor the docket through August 31, 2023, and will encourage all parties to the mediation to do the same.

## **II. Key Questions for Input**

### *Lower Snake River*

In securing the current stay of litigation, the Federal Government agreed to explore lower Snake River habitat restoration opportunities, “including but not limited to migration corridor restoration through breaching the four lower Snake River dams,” which would require Congressional authorization. The Federal Government would welcome views on:

- What constitutes “restoration” of the lower Snake River and what steps should the Federal Government take to restore the lower Snake River?
- What considerations should inform the Federal Government’s approach to restoring the lower Snake River?
- What information should the Federal government develop to support discussions in the Northwest and in Congress on the restoration of the lower Snake River?

### *Upper Columbia River*

In securing the current stay of litigation, the Federal Government agreed to explore providing full support for and funding of a plan developed by the Upper Columbia River Tribes to reintroduce salmon into the Upper Columbia River Basin. The Federal Government would welcome views on:

- What considerations should inform the Federal Government’s approach to supporting the Upper Columbia River Tribes’ reintroduction plan?

### *Funding*

In securing the current stay of litigation, the Federal Government agreed to explore actions and funding to address “unmitigated Tribal needs, avoiding future issues with respect to creating inequities, and actions supporting salmon and other fisheries and fish and wildlife programs and infrastructure.” The Federal Government would welcome views on:

- What steps should the Federal Government take in response to this commitment?
  - What considerations should inform the Federal Government’s approach to funding and actions to restore fish populations throughout the Columbia River Basin?

**Amy Coyle,**

*Deputy General Counsel*

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